

REMARKS

Claims 1-49 are pending in this application, of which claims 1, 14, 27, 40, 42, 45, and 48 are the independent claims. Claims 13, 26, 39, 42, and 45-49 have been canceled, and new claims 50-55 have been added. Favorable reconsideration is requested in view of the following remarks:

35 USC § 101 Rejections

Claims 1, 40, 42, 45, and 48 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1 and 40 have been amended and the applicant respectfully requests withdrawal of the §101 rejections. Claims 42, 45 and 48 have been canceled, thus rendering the rejections moot.

35 USC § 102 Rejections

Claims 1-7, 10, 12-20, 25-33, 36, and 38-48 are rejected under 35 USC § 102(e) as being anticipated by Downs et al. (US Pat. 6,226,618). Claim 1 has been amended to recite “receiving publication information associated with the digital content, the publication information including distribution information that identifies one or more content distributors to be notified about the received digital content.”

The examiner states that Downs discloses “receiving digital content and metadata associated with the digital content, receiving publication information with the digital content, producing protected digital content (i.e., “content SC”) and sending a message including the metadata and publication information” at col. 18 table, step 121-129. With the exception of the

“digital content” feature of claim 1, the examiner has not identified which elements of Downs correspond with the other features of claim 1.

The applicant has inferred from the office action that the “Metadata SC” element in Downs is the element the examiner believes corresponds to the “publication information” feature of claim 1. Even if, for the sake of argument only, the applicant’s inference is accurate, the applicant contends that the Metadata SC, which contains metadata and other information about the content, does not include “distribution information that identifies one or more content distributors” as required in claim 1. Downs has listed the kinds of data that may be included in the Metadata SC. (col. 60, line 40 to col. 63, line 20). Nowhere does Downs disclose “distribution information that identifies one or more content distributors to be notified about the received digital content.” There is no need or motivation to include such distribution information because Downs notifies all content distributors (or Electronic Digital Content Stores, as he calls them) when new content is available. (col. 68, lines 35-40).

Claims 14 and 27 are allowable for the same reasons provided with respect to claim 1.

Claim 40 has been amended to recite “A system comprising...a digital rights management (DRM) computer configured to receive metadata and publication information, and store the metadata and the publication information, the publication information including distribution information that identifies one or more content distributors to be notified about the digital content.” As previously-discussed, Downs does not disclose nor suggest identifying specific content distributors that are to be notified when new content is available. Downs only

discloses notifying all content distributors when new content is available. (see col. 68, lines 35-40). Claim 40 is allowable over Downs.

The dependent claims are allowable for at least the reasons stated above with respect to the independent claims from which they depend.

35 USC § 103 Rejections

The examiner rejected claims 8, 21, and 34 under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Saito et al. (EP 1041823A2). Claims 8, 21, and 34, which depend on independent claims 1, 14, and 27 respectively, are allowable for at least the reasons stated above.

The examiner rejected claims 9, 22, 35, and 49 under 35 USC §103(a) as being unpatentable over Downs in view of Brown et al. (US Pub. 2004/0064471). Claims 9, 22, and 35, which depend on independent claims 1, 14, and 27 respectively, are allowable for at least the reasons stated above.

The examiner rejected claim 11 under 35 USC §103(a) as being unpatentable over Downs and Brown further in view of Gilliam et al. (US Pub. 2004/0039704). Claim 11, which depends on independent claim 1, is allowable for at least the reasons stated above.

The examiner rejected claims 24 and 37 under 35 USC §103(a) as being unpatentable over Downs in view of Gilliam. Claims 24 and 37, which depend on independent claims 14 and 27 respectively, are allowable for at least the reasons stated above.

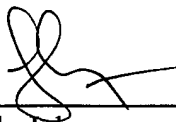
Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 9/20/04



Mandy Jubang
Reg. No. 45,884

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906